



## MEMORANDUM

To: Members of the House Labor and Commerce Committees

From: Wendy Block, Director of Health Policy and Human Resources *WB*

Subject: Chamber Opposes Bills Making Employers "Immigration Police"

Date: October 16, 2007

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The purpose of this memorandum is to express the Michigan Chamber's opposition to House Bills 5780-91, legislation to make Michigan employers who are receiving tax credits, state financing, loans and/or other funds the "immigration police" by requiring them to not only verify the legal status of their employees (as required by federal law) but also to require employers to verify the legal status of their contractor's employees. In addition, we have questions regarding the requirements found in the bill to require employers receiving these funds to hire only Michigan workers.

For background purposes, you should be aware that federal law requires employers to check the legal status of each of their workers. Within the first three days of employment, an employee must show the employer a document or combination of documents to prove their identity and eligibility to work. The employer then must fill out the Form I-9 and retain it.

Unfortunately, the I-9 process is susceptible to fraudulent documents, as well as identity fraud. If a document looks valid on its face, an employer may not legally ask questions without the risk of violating anti-discrimination laws. Hence, the current system has made it impossible for employers to really know who is actually authorized to work and who is not. There are numerous examples of instances where the Department of Homeland Security (DHS) has conducted an audit or raid of an employer and found the employer to not be at fault because s/he followed the law, filled out the proper forms and documents, and could not have known that the employee(s) in question were not authorized to work.

Given the complexity of verifying the legitimacy of documents used to determine legal work status, the Michigan Chamber has significant concerns with the language in HBs 5780-91. Specifically:

1. The bill language, at a minimum, should be tightened to require employers to state that they will not "knowingly" hire illegal immigrants or "intentionally violate" immigration laws. Given that the bills would revoke funding and possibly even require repayment, we feel it would be appropriate to punish only those who had actual knowledge that they were hiring illegal workers.

2. The language should be amended to remove the requirement that employers be made the **“immigration police”** for the purpose of verifying the legal status of their contractors’ employees. As drafted, the bills would require businesses to verify the legal status of their contractors’ employees, even if those employees aren’t working on jobs involving state funds because the legislation covers all “employees of any contractors hired by the applicant”. Furthermore, we have concerns with how this would work from a practical standpoint (i.e., how an employer would verify the legitimacy of the contract employee’s I-9 documents) and whether there are privacy issues related to this requirement.

In addition to the immigration requirements found in HBs 5780-91, we have questions regarding the resident-only hiring requirements. While we agree that Michigan companies should be awarded financing, grants, loans, projects, etc. when all things are equal, there may be instances where this may not be practical. For example:

1. Should a company be awarded a bid on, for example, a state construction project just because that company only hires Michigan residents? Shouldn’t the State also take into consideration who is best equipped to handle a given job and/or the project costs associated with each bid? Wouldn’t this be wise given the state’s tight fiscal situation?
2. Has the Legislature looked into instances where state agencies have awarded bids to out-of-state companies (e.g., DMB paying an Ohio company double the price of a Michigan company to pulverization versus shred state documents)? Why aren’t state agencies and authorities implementing and pursuing Michigan-worker-first requirements today?
3. How will this “Michigan-workers-only” requirement impact the MEDC’s efforts to attract out-of-state or out-of-country companies through the use of MEGA and Brownfield credits?

Thank you for the opportunity to submit to the Committee these comments, questions and concerns. Please do not hesitate to contact me, Tricia Kinley or Jim Holcomb if you have further questions at (517)371-2100.